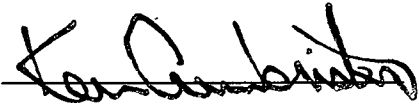


By:



S.B. No. 1374

A BILL TO BE ENTITLED

AN ACT

relating to permitting of water rights for instream uses by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0235 and 11.0236 to read as follows:

Sec. 11.0235. STUDY COMMISSION ON WATER RIGHTS FOR INSTREAM USES. (a) In recognition of the importance that the ecological vitality of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the Study Commission on Water Rights for Instream Uses.

(b) The study commission is composed of nine members appointed as follows:

(1) three members appointed by the lieutenant governor;

(2) three members appointed by the speaker of the house of representatives;

(3) the chairman of the Texas Commission on Environmental Quality or the chairman's designee;

(4) the chairman of the Texas Water Development Board or the chairman's designee; and

(5) the chairman of the Parks and Wildlife Department or the chairman's designee.

(c) The lieutenant governor and the speaker of the house

1 each shall appoint one individual who represents a river authority
2 or municipal water supply agency or authority, one individual who
3 represents an entity that is distinguished by its efforts in
4 resource protection, and, respectively, one senator and one member
5 of the house of representatives.

6 (d) Each appointed member of the study commission serves at
7 the will of the person who appointed the member.

8 (e) The appointed senator serves as chairman.

9 (f) A member of the study commission is not entitled to
10 receive compensation for service on the study commission but is
11 entitled to reimbursement of the travel expenses incurred by the
12 member while conducting the business of the study commission, as
13 provided by the General Appropriations Act.

14 (g) The study commission may accept gifts and grants from
15 any source to be used to carry out a function of the study
16 commission.

17 (h) The study commission shall conduct public hearings and
18 study public policy implications for granting permits for instream
19 uses of freshwater and any other issues that the commission
20 determines have importance to the permitting of instream uses of
21 water. In evaluating the permitting of water rights for instream
22 uses, the study commission shall take notice of the strong public
23 policy imperative that exists in this state recognizing that
24 instream uses are important to the biological health of our parks,
25 game preserves, and bays and estuary systems and are high
26 priorities in the permitting process. The study commission shall
27 specifically address ways that the ecological vitality of these

1 systems will be ensured in the permitting process.

2 (i) The study commission may:

3 (1) appoint an advisory committee to assist the study
4 commission in studying a specific permitting issue; and

5 (2) draft proposed legislation to modify existing
6 water-rights permitting statutes.

7 (j) Not later than December 1, 2004, the study commission
8 shall issue a report summarizing:

9 (1) any hearings conducted by the study commission;

10 (2) any studies conducted by the study commission;

11 (3) any legislation proposed by the study commission;

12 and

13 (4) any other findings and recommendations of the
14 study commission.

15 (k) The study commission shall promptly deliver copies of
16 the report to the lieutenant governor and the speaker of the house.

17 (l) The study commission shall adopt rules to administer
18 this section.

19 (m) The study commission is abolished and this section
20 expires June 1, 2005.

21 Sec. 11.0236. TEMPORARY MORATORIUM ON GRANTING WATER RIGHTS
22 FOR INSTREAM USES. (a) The Texas Commission on Environmental
23 Quality may not permit water rights for instream uses until after
24 August 31, 2005.

25 (b) Instream uses include water rights for purposes listed
26 in Sections 11.023(a)(6), (7), and (8), and Section 11.023(b),
27 Water Code.

1 (c) This section expires September 1, 2005.

2 SECTION 2. The Texas Commission on Environmental Quality
3 shall provide staff support for the Study Commission on Water
4 Rights for Instream Uses created by this Act.

5 SECTION 3. Any permit applications pending on the effective
6 date of this Act shall be suspended until the moratorium on
7 permitting provided by Section 11.0236, Water Code, as added by
8 this Act, expires.

9 SECTION 4. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2003.

1-1 By: Armbrister S.B. No. 1374
1-2 (In the Senate - Filed March 13, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 29, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0, 1 present not
1-6 voting; April 29, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1374 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to public waters and provision for environmental flows by
1-11 the Texas Commission on Environmental Quality.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 11, Water Code, is amended
1-14 by adding Sections 11.0235, 11.0236, and 11.0237 to read as
1-15 follows:

1-16 Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE.

1-17 (a) The waters of the state are held in trust for the public, and
1-18 the right to use state water may be appropriated only as expressly
1-19 authorized by law.

1-20 (b) Maintaining the biological soundness of the state's
1-21 rivers, lakes, bays, and estuaries is of great importance to the
1-22 public's economic health and general well-being.

1-23 (c) The legislature has expressly required the commission
1-24 while balancing all other interests to consider and provide for the
1-25 freshwater inflows necessary to maintain the viability of the
1-26 state's bay and estuary systems in the commission's regular
1-27 granting of permits for the use of state waters.

1-28 (d) The legislature has not expressly authorized granting
1-29 water rights exclusively for:

1-30 (1) instream flows dedicated to environmental needs or
1-31 inflows to the state's bay and estuary systems; or

1-32 (2) other similar beneficial uses.

1-33 (e) The fact that greater pressures and demands are being
1-34 placed on the water resources of the state makes it of paramount
1-35 importance to reexamine the process for ensuring that these
1-36 important priorities are effectively addressed in clear
1-37 delegations of authority to the commission.

1-38 (f) This section expires September 1, 2005.

1-39 Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL
1-40 FLOWS. (a) In recognition of the importance that the ecological
1-41 soundness of our riverine, bay, and estuary systems and riparian
1-42 lands has on the economy, health, and well-being of the state there
1-43 is created the Study Commission on Water for Environmental Flows.

1-44 (b) The study commission is composed of 15 members as
1-45 follows:

1-46 (1) two members appointed by the governor;

1-47 (2) five members appointed by the lieutenant governor;

1-48 (3) five members appointed by the speaker of the house
1-49 of representatives;

1-50 (4) the presiding officer of the commission or the
1-51 presiding officer's designee;

1-52 (5) the chairman of the board or the chairman's
1-53 designee; and

1-54 (6) the presiding officer of the Parks and Wildlife
1-55 Commission or the presiding officer's designee.

1-56 (c) Of the members appointed under Subsection (b)(2):

1-57 (1) one member must represent a river authority or
1-58 municipal water supply agency or authority;

1-59 (2) one member must represent an entity that is
1-60 distinguished by its efforts in resource protection; and

1-61 (3) three members must be members of the senate.

1-62 (d) Of the members appointed under Subsection (b)(3):

1-63 (1) one member must represent a river authority or

2-1 municipal water supply agency or authority;

2-2 (2) one member must represent an entity that is
 2-3 distinguished by its efforts in resource protection; and

2-4 (3) three members must be members of the house of
 2-5 representatives.

2-6 (e) Each appointed member of the study commission serves at
 2-7 the will of the person who appointed the member.

2-8 (f) The appointed senator with the most seniority serves as
 2-9 presiding officer of the study commission.

2-10 (g) A member of the study commission is not entitled to
 2-11 receive compensation for service on the study commission but is
 2-12 entitled to reimbursement of the travel expenses incurred by the
 2-13 member while conducting the business of the study commission, as
 2-14 provided by the General Appropriations Act.

2-15 (h) The study commission may accept gifts and grants from
 2-16 any source to be used to carry out a function of the study
 2-17 commission.

2-18 (i) The commission shall provide staff support for the study
 2-19 commission.

2-20 (j) The study commission shall conduct public hearings and
 2-21 study public policy implications for balancing the demands on the
 2-22 water resources of the state resulting from a growing population
 2-23 with the requirements of the riverine, bay, and estuary systems
 2-24 including granting permits for instream flows dedicated to
 2-25 environmental needs or bay and estuary inflows, use of the Texas
 2-26 Water Trust, and any other issues that the commission determines
 2-27 have importance and relevance to the protection of environmental
 2-28 flows. In evaluating the options for providing adequate
 2-29 environmental flows, the study commission shall take notice of the
 2-30 strong public policy imperative that exists in this state
 2-31 recognizing that environmental flows are important to the
 2-32 biological health of our parks, game preserves, and bay and estuary
 2-33 systems and are high priorities in the permitting process. The
 2-34 study commission shall specifically address ways that the
 2-35 ecological soundness of these systems will be ensured in the water
 2-36 allocation process.

2-37 (k) The study commission:

2-38 (1) shall appoint an advisory scientific committee
 2-39 that will:

2-40 (A) serve as impartial scientific advisors and
 2-41 reviewers for the study commission; and

2-42 (B) have a membership of no fewer than five and no
 2-43 more than nine total members chosen by the study commission to
 2-44 represent a variety of areas of relevant technical expertise;

2-45 (2) may appoint additional advisory committees to
 2-46 assist the study commission; and

2-47 (3) may draft proposed legislation to modify existing
 2-48 water-rights permitting statutes.

2-49 (1) Not later than December 1, 2004, the study commission
 2-50 shall issue a report summarizing:

2-51 (1) any hearings conducted by the study commission;

2-52 (2) any studies conducted by the study commission;

2-53 (3) any legislation proposed by the study commission;

2-54 and

2-55 (4) any other findings and recommendations of the
 2-56 study commission.

2-57 (m) The study commission shall promptly deliver copies of
 2-58 the report to the governor, lieutenant governor, and speaker of the
 2-59 house of representatives.

2-60 (n) The study commission shall adopt rules to administer
 2-61 this section.

2-62 (o) The study commission is abolished and this section
 2-63 expires September 1, 2005.

2-64 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
 2-65 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The
 2-66 commission may not grant an application filed after January 1,
 2-67 2000, to issue a new permit for instream flows dedicated to
 2-68 environmental needs or bay and estuary inflows. This section does
 2-69 not prohibit the commission from issuing an amendment to an

existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows. This section does not apply to any permit granted before the effective date of this section.

(b) This section does not alter the commission's obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

(c) This section expires September 1, 2005.

SECTION 2. Subsections (d) and (e), Section 11.147, Water Code, are amended to read as follows:

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain ~~[consider the effect, if any, of the issuance of the permit on]~~ existing instream uses and water quality of the stream or river to which the application applies.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain ~~[also consider the effect, if any, of the issuance of the permit on]~~ fish and wildlife habitats.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 1374
By Armbrister
(Author/Senate Sponsor)
4-29-03
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,
have on 4-28-03, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☐ the caption remained the same as original measure
☒ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Jackson, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Barrientos				<input checked="" type="checkbox"/>
Senator Duncan	<input checked="" type="checkbox"/>			
Senator Estes	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Hinojosa	<input checked="" type="checkbox"/>			
Senator Lindsay	<input checked="" type="checkbox"/>			
Senator Lucio	<input checked="" type="checkbox"/>			
Senator Shapiro	<input checked="" type="checkbox"/>			
Senator Staples	<input checked="" type="checkbox"/>			
TOTAL VOTES	10			1

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

[Signature]
COMMITTEE CLERK

[Signature]
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 1374

SENATE COMMITTEE REPORT

Natural Resources

April 24, 2003 - 1:00PM

FOR: Brune, David Attorney (Upper Trinity Regional Water District), Irving, TX
Murray, Pat (Coastal Conservation Association of Texas), Houston, TX
Robbins, Dean (Texas Water Conservation Association), Austin, TX
Rothe, Greg (San Antonio River Authority), San Antonio, TX
West, W.E.(Bill) General Manager (GBRA), Seguin, TX

AGAINST: Bartos, John Attorney (Galveston Bay Foundation), Houston, TX
Bezanson, Janice Executive Director (Texas Committee on Natural Resources),
Austin, TX
Gibbs, Sue Shilling (Self), Victoria, TX
Henry, Stuart Attorney (San Marcos River Foundation), Austin, TX
Hess, Myron Attorney (National Wildlife Federation), Austin, TX
Kelly, Mary Attorney (Environmental Defense), Austin, TX
Kramer, Ken Director (Lone Star Chapter, Sierra Club), Austin, TX
Levin, Ilan Attorney (San Marcos River Foundation), Austin, TX
Shellman, Dwight Attorney (Caddo Lake Institute), Karnack, TX
Wassenick, Dianne Executive Director (San Marcos River Foundation), San Marcos,
TX

ON: Armstrong, Katharine Chairman (Texas Parks & Wildlife), Austin, TX
Cook, Robert Executive Director (Texas Parks & Wildlife), Austin, TX
Hoffman, Margaret Executive Director (TCEQ), Austin, TX

Registering, but not testifying:

FOR: Booth, Michael Attorney (Texas Water Conservation Association), Austin, TX
Butler, Susan (San Antonio Water System), San Antonio, TX
Clark, Jerry General Manager (Sabine River Authority of TX), Orange, TX
Howe, Billy State Legislative Director (Texas Farm Bureau), Austin, TX
James, Jerry (City of Victoria), Victoria, TX
Salmon, Stephen (Texas Sheep & Goat Raisers Association), San Angelo, TX
Scott, Sam (Trinity River Authority of Texas), Arlington, TX
Stroder, Robert (Lower Neches Valley Authority), Beaumont, TX
Taylor, Tom Executive Director (Upper Trinity Regional Water District), Lewisville,
TX
Turner, Bob Consultant (Texas Sheep & Goat Raisers Association), Austin, TX
Valdez, Jerry (North Texas Municipal Water District), Austin, TX

AGAINST: Dodington, Florence Owens (Self), Martindale, TX

Edwards, Anthony (Self), Austin, TX
Gibbs, John (Self), Victoria, TX
King, Jack (Sportsmen'ss Conservationist of Texas), Austin, TX
McMahon, Jennifer (Self), Austin, TX
Mitchell, Jamie Consultant (Surfrider Foundation, Central Texas Chapter), Ausin, TX
Pickett-Stevenson, Cynthia Attorney (Galverston Bay Foundation), Houston, TX
Ross, Lauren (Self), Austin, TX
Smith, Tom "Smitty" Director (Public Citizen), Ausitn, TX
Walker, Scheleen (Self), Austin, TX
Wassenick, Tom (San Marcos River Foundation), San Marcos, TX

ON: Sansom, Andrew (Self), San Marcos, TX

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1374
By: Armbrister
Natural Resources
4/28/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

The Texas Commission on Environmental Quality (TCEQ) regulates the instream uses of Texas surface waterbodies, bays, and estuaries. C.S.S.B. 1374 sets forth state policy regarding waters of the state; creates the Study Commission on Water for Environmental Flows in recognition of the importance that the ecological soundness of riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state; and makes provisions regarding water rights permits for instream flows.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Study Commission on Water for Environmental Flows in SECTION 1 (Section 11.0236, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Water Code, by adding Sections 11.0235, 11.0236, and 11.0237, as follows:

Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE. Sets forth state policy regarding waters of the state and legislative intent regarding water rights. Provides that this section expires September 1, 2005.

Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL FLOWS. (a) Creates, in recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state, the Study Commission on Water for Environmental Flows (study commission).

- (b) Provides that the study commission is composed of 15 certain members.
- (c) Sets forth stipulations regarding members of the study commission.
- (d) Sets forth stipulations regarding members of the study commission.
- (e) Provides that each appointed member of the study commission serves at the will of the person who appointed the member.
- (f) Provides that the appointed senator with the most seniority serves as presiding officer of the study commission.
- (g) Provides that a member of the study commission is not entitled to receive compensation for service on the study commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the study commission, as provided by the General Appropriations Act.

- (h) Authorizes the study commission to accept gifts and grants from any source to be used to carry out a function of the study commission.
- (i) Requires the Texas Commission on Environmental Quality (TCEQ) to provide staff support for the study commission.
- (j) Requires the study commission to conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that TCEQ determines have importance and relevance to the protection of environmental flows. Requires the study commission, in evaluating the options for providing adequate environmental flows, to take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our parks, game preserves, and bay and estuary systems and are high priorities in the permitting process. Requires the study commission to specifically address ways that the ecological soundness of these systems will be ensured in the water allocation process.
- (k) Requires the study commission to appoint an advisory scientific committee that will perform certain functions.
- (l) Requires the study commission, not later than December 1, 2004, to issue a report summarizing certain actions and findings.
- (m) Requires the study commission to promptly deliver copies of the report to the governor, lieutenant governor and speaker of the house of representatives.
- (n) Requires the study commission to adopt rules to administer this section.
- (o) Provides that the study commission is abolished, and this section expires, September 1, 2005.

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) Prohibits TCEQ from granting an application filed after January 1, 2000, to issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. Provides that this section does not prohibit TCEQ from issuing an amendment to an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows. Provides that this section does not apply to any permit granted before the effective date of this section.

- (b) Provides that this section does not alter TCEQ's obligations under Section 11.042(b) (regarding the diversion and reuse of return flows), 11.046(b) (provisions regarding the return of surplus water), 11.085(k)(2)(F) (pertaining to TCEQ's consideration of the impact of a proposed transfer on certain waterways), 11.134(b)(3)(D) (regarding the grant of an application being contingent on certain assessments), 11.147 (Effects of Permit on Bays and Estuaries and Instream Uses), 11.1491 (Evaluation of Bays and Estuaries Data), 16.058 (Collection of Bays and Estuaries Data; Conduct of Studies), or 16.059 (Collection of Instream Flow Data; Conduct of Studies).
- (c) Provides that this section expires September 1, 2005.

SECTION 2. Amends Subsections (d) and (e), Section 11.147, Water Code, as follows:

(d) Requires TCEQ, in its consideration of an application to store, take, or divert water, to include in the permit, to the extent practicable when considering all public interests, those conditions considered by TCEQ necessary to maintain existing instream uses and water quality of the stream or river to which the application applies.

(e) Requires TCEQ to include in the permit, to the extent practicable when considering all public interests, those conditions considered by TCEQ necessary to maintain fish and wildlife habitats.

SECTION 3. Effective date: upon passage or September 1, 2003.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 28, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1374** by Armbrister (Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, Committee Report 1st House, Substituted: a negative impact of (\$84,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$42,000)
2005	(\$42,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$42,000)	(\$27,077)	1.1
2005	(\$42,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a fifteen-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would provide staff to the newly-created commission.

Members of the new commission would be eligible for reimbursement of travel expenses incurred by the member while conducting the business of the study commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009. It is expected that costs associated with this bill to the three agencies could be reasonably absorbed within the existing resources of each of the respective agencies.

Assuming the 12 members of the newly-created commission not representing TCEQ, TPWD and the Water Development Board would incur travel expenses of \$1,000 each per year, an additional \$12,000 in travel costs would be expected to be paid out of the General Revenue Fund. This estimate assumes that these costs would be paid out of existing appropriations to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 22, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1374** by Armbrister (Relating to permitting of water rights for instream uses by the Texas Commission on Environmental Quality.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, As Introduced: a negative impact of (\$60,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$30,000)
2005	(\$30,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable (Cost) from <i>GAME, FISH, WATER SAFETY AC</i> 9	Change in Number of State Employees from FY 2003
2004	(\$30,000)	(\$27,077)	1.1
2005	(\$30,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a nine-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would be charged with providing staff to the newly-created commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009.

It is expected that all costs associated with this bill could be reasonably absorbed within the existing resources of each of the respective agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

ADOPTED *as amended*

MAY 05 2003

Atty. Gen.
Secretary of the Senate

By: Armbrister

S.B. No. 1374

Substitute the following for S.B. No. 1374:

By: *[Signature]*

C.S.S.B. No. 1374

A BILL TO BE ENTITLED

AN ACT

relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0235, 11.0236, and 11.0237 to read as follows:

Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE.

(a) The waters of the state are held in trust for the public, and the right to use state water may be appropriated only as expressly authorized by law.

(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being.

(c) The legislature has expressly required the commission while balancing all other interests to consider and provide for the freshwater inflows necessary to maintain the viability of the state's bay and estuary systems in the commission's regular granting of permits for the use of state waters.

(d) The legislature has not expressly authorized granting water rights exclusively for:

(1) instream flows dedicated to environmental needs or inflows to the state's bay and estuary systems; or

(2) other similar beneficial uses.

1 (e) The fact that greater pressures and demands are being
2 placed on the water resources of the state makes it of paramount
3 importance to reexamine the process for ensuring that these
4 important priorities are effectively addressed in clear
5 delegations of authority to the commission.

f.A.# 2
(1) 6 ~~(f) This section expires September 1, 2005.~~

7 Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL
8 FLOWS. (a) In recognition of the importance that the ecological
9 soundness of our riverine, bay, and estuary systems and riparian
10 lands has on the economy, health, and well-being of the state there
11 is created the Study Commission on Water for Environmental Flows.

12 (b) The study commission is composed of 15 members as
13 follows:

14 (1) two members appointed by the governor;
15 (2) five members appointed by the lieutenant governor;
16 (3) five members appointed by the speaker of the house
17 of representatives;

18 (4) the presiding officer of the commission or the
19 presiding officer's designee;

20 (5) the chairman of the board or the chairman's
21 designee; and

22 (6) the presiding officer of the Parks and Wildlife
23 Commission or the presiding officer's designee.

24 (c) Of the members appointed under Subsection (b)(2):

25 (1) one member must represent a river authority or
26 municipal water supply agency or authority;

27 (2) one member must represent an entity that is

1 distinguished by its efforts in resource protection; and

2 (3) three members must be members of the senate.

3 (d) Of the members appointed under Subsection (b)(3):

4 (1) one member must represent a river authority or
5 municipal water supply agency or authority;

6 (2) one member must represent an entity that is
7 distinguished by its efforts in resource protection; and

8 (3) three members must be members of the house of
9 representatives.

10 (e) Each appointed member of the study commission serves at
11 the will of the person who appointed the member.

12 (f) The appointed senator with the most seniority serves as
13 presiding officer of the study commission.

14 (g) A member of the study commission is not entitled to
15 receive compensation for service on the study commission but is
16 entitled to reimbursement of the travel expenses incurred by the
17 member while conducting the business of the study commission, as
18 provided by the General Appropriations Act.

19 (h) The study commission may accept gifts and grants from
20 any source to be used to carry out a function of the study
21 commission.

22 (i) The commission shall provide staff support for the study
23 commission.

24 (j) The study commission shall conduct public hearings and
25 study public policy implications for balancing the demands on the
26 water resources of the state resulting from a growing population
27 with the requirements of the riverine, bay, and estuary systems

1 including granting permits for instream flows dedicated to 7/01
2 environmental needs or bay and estuary inflows, use of the Texas
3 Water Trust, and any other issues that the ^{study} commission determines
4 have importance and relevance to the protection of environmental
5 flows. In evaluating the options for providing adequate
6 environmental flows, the study commission shall take notice of the
7 strong public policy imperative that exists in this state
8 recognizing that environmental flows are important to the
9 biological health of our parks, game preserves, and bay and estuary
10 systems and are high priorities in the permitting process. The
11 study commission shall specifically address ways that the
12 ecological soundness of these systems will be ensured in the water
13 allocation process.

14 (k) The study commission:

15 (1) shall appoint an advisory scientific committee
16 that will:

17 (A) serve as impartial scientific advisors and
18 reviewers for the study commission; and

19 (B) have a membership of no fewer than five and no
20 more than nine total members chosen by the study commission to
21 represent a variety of areas of relevant technical expertise;

22 (2) may appoint additional advisory committees to
23 assist the study commission; and

24 (3) may draft proposed legislation to modify existing
25 water-rights permitting statutes.

26 (1) Not later than December 1, 2004, the study commission
27 shall issue a report summarizing:

- 1 (1) any hearings conducted by the study commission;
2 (2) any studies conducted by the study commission;
3 (3) any legislation proposed by the study commission;

4 and

5 (4) any other findings and recommendations of the
6 study commission.

7 (m) The study commission shall promptly deliver copies of
8 the report to the governor, lieutenant governor, and speaker of the
9 house of representatives.

10 (n) The study commission shall adopt rules to administer
11 this section.

12 (o) The study commission is abolished and this section
13 expires September 1, 2005.

14 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
15 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS.

16 (a) The
17 commission may not grant an application filed after January 1,
18 2000, to issue a new permit for instream flows dedicated to
19 environmental needs or bay and estuary inflows. This section does
20 not prohibit the commission from issuing an amendment to an
21 existing permit or certificate of adjudication to change the use to
22 or add a use for instream flows dedicated to environmental needs or
23 bay and estuary inflows. This section does not apply to any permit
24 granted before the effective date of this section.

25 (b) This section does not alter the commission's
26 obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F),
27 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

28 (c) This section expires September 1, 2005.

1 SECTION 2. Subsections (d) and (e), Section 11.147, Water
2 Code, are amended to read as follows:

3 (d) In its consideration of an application to store, take, ^{5/6}
4 or divert water, the commission shall include in the permit, to the
5 extent practicable when considering all public interests, those
6 conditions considered by the commission necessary to maintain
7 ~~[consider the effect, if any, of the issuance of the permit on]~~
8 existing instream uses and water quality of the stream or river to
9 which the application applies.

10 (e) The commission shall include in the permit, to the
11 extent practicable when considering all public interests, those
12 conditions considered by the commission necessary to maintain ~~[also~~
13 ~~consider the effect, if any, of the issuance of the permit on]~~ fish
14 and wildlife habitats.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2003.

ADOPTED

MAY 05 2003

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

By: *Ken Curbishley*

- ✓
1 Amend C.S.S.B. No. 1374, in SECTION 1 of the bill, in Subsection
2 (j), Section 11.0236, Water Code (Committee printing page 2, line
3 ³26), between "the"-and "commission", by inserting "study".

ADOPTED

MAY 05 2003

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 2

By: *Ken Rumbaut*

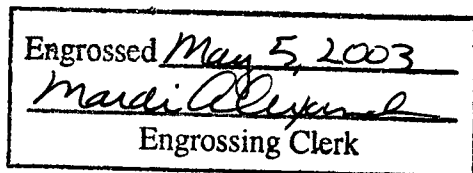
1 Amend C.S.S.B. No. 1374 as follows:

2 ✓ (1) In SECTION 1 of the bill, strike Subsection (f), Section
3 11.0235, Water Code (Committee printing page 1, line 38).

4 (2) In SECTION 1 of the bill, strike Subsection (a), Section
5 11.0237, Water Code (Committee printing page ²5, line ⁶65 through
6 page 3, line 4), and substitute "(a) The commission may not issue a

*Insert
F.A.#2
(2)
at
p. 5, l. 158*

7 new permit for instream flows dedicated to environmental needs or
8 bay and estuary inflows. This section does not prohibit the
9 commission from issuing an amendment to an existing permit or
10 certificate of adjudication to change the use to or add a use for
11 instream flows dedicated to environmental needs or bay and estuary
12 inflows."



I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Armbrister
(Puente)

S.B. No. 1374

A BILL TO BE ENTITLED

AN ACT

relating to public waters and provision for environmental flows by
the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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by adding Sections 11.0235, 11.0236, and 11.0237 to read as
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(a) The waters of the state are held in trust for the public, and
the right to use state water may be appropriated only as expressly
authorized by law.

(b) Maintaining the biological soundness of the state's
rivers, lakes, bays, and estuaries is of great importance to the
public's economic health and general well-being.

(c) The legislature has expressly required the commission
while balancing all other interests to consider and provide for the
freshwater inflows necessary to maintain the viability of the
state's bay and estuary systems in the commission's regular
granting of permits for the use of state waters.

(d) The legislature has not expressly authorized granting
water rights exclusively for:

(1) instream flows dedicated to environmental needs or
inflows to the state's bay and estuary systems; or

(2) other similar beneficial uses.

1 (e) The fact that greater pressures and demands are being
2 placed on the water resources of the state makes it of paramount
3 importance to reexamine the process for ensuring that these
4 important priorities are effectively addressed in clear
5 delegations of authority to the commission.

6 Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL
7 FLOWS. (a) In recognition of the importance that the ecological
8 soundness of our riverine, bay, and estuary systems and riparian
9 lands has on the economy, health, and well-being of the state there
10 is created the Study Commission on Water for Environmental Flows.

11 (b) The study commission is composed of 15 members as
12 follows:

13 (1) two members appointed by the governor;
14 (2) five members appointed by the lieutenant governor;
15 (3) five members appointed by the speaker of the house
16 of representatives;

17 (4) the presiding officer of the commission or the
18 presiding officer's designee;

19 (5) the chairman of the board or the chairman's
20 designee; and

21 (6) the presiding officer of the Parks and Wildlife
22 Commission or the presiding officer's designee.

23 (c) Of the members appointed under Subsection (b)(2):

24 (1) one member must represent a river authority or
25 municipal water supply agency or authority;

26 (2) one member must represent an entity that is
27 distinguished by its efforts in resource protection; and

1 (3) three members must be members of the senate.

2 (d) Of the members appointed under Subsection (b)(3):

3 (1) one member must represent a river authority or
4 municipal water supply agency or authority;

5 (2) one member must represent an entity that is
6 distinguished by its efforts in resource protection; and

7 (3) three members must be members of the house of
8 representatives.

9 (e) Each appointed member of the study commission serves at
10 the will of the person who appointed the member.

11 (f) The appointed senator with the most seniority serves as
12 presiding officer of the study commission.

13 (g) A member of the study commission is not entitled to
14 receive compensation for service on the study commission but is
15 entitled to reimbursement of the travel expenses incurred by the
16 member while conducting the business of the study commission, as
17 provided by the General Appropriations Act.

18 (h) The study commission may accept gifts and grants from
19 any source to be used to carry out a function of the study
20 commission.

21 (i) The commission shall provide staff support for the study
22 commission.

23 (j) The study commission shall conduct public hearings and
24 study public policy implications for balancing the demands on the
25 water resources of the state resulting from a growing population
26 with the requirements of the riverine, bay, and estuary systems
27 including granting permits for instream flows dedicated to

1 environmental needs or bay and estuary inflows, use of the Texas
2 Water Trust, and any other issues that the study commission
3 determines have importance and relevance to the protection of
4 environmental flows. In evaluating the options for providing
5 adequate environmental flows, the study commission shall take
6 notice of the strong public policy imperative that exists in this
7 state recognizing that environmental flows are important to the
8 biological health of our parks, game preserves, and bay and estuary
9 systems and are high priorities in the permitting process. The
10 study commission shall specifically address ways that the
11 ecological soundness of these systems will be ensured in the water
12 allocation process.

13 (k) The study commission:

14 (1) shall appoint an advisory scientific committee
15 that will:

16 (A) serve as impartial scientific advisors and
17 reviewers for the study commission; and

18 (B) have a membership of no fewer than five and no
19 more than nine total members chosen by the study commission to
20 represent a variety of areas of relevant technical expertise;

21 (2) may appoint additional advisory committees to
22 assist the study commission; and

23 (3) may draft proposed legislation to modify existing
24 water-rights permitting statutes.

25 (1) Not later than December 1, 2004, the study commission
26 shall issue a report summarizing:

27 (1) any hearings conducted by the study commission;

1 (2) any studies conducted by the study commission;
2 (3) any legislation proposed by the study commission;
3 and
4 (4) any other findings and recommendations of the
5 study commission.

6 (m) The study commission shall promptly deliver copies of
7 the report to the governor, lieutenant governor, and speaker of the
8 house of representatives.

9 (n) The study commission shall adopt rules to administer
10 this section.

11 (o) The study commission is abolished and this section
12 expires September 1, 2005.

13 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
14 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The
15 commission may not issue a new permit for instream flows dedicated
16 to environmental needs or bay and estuary inflows. This section
17 does not prohibit the commission from issuing an amendment to an
18 existing permit or certificate of adjudication to change the use to
19 or add a use for instream flows dedicated to environmental needs or
20 bay and estuary inflows.

21 (b) This section does not alter the commission's
22 obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F),
23 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

24 (c) This section expires September 1, 2005.

25 SECTION 2. Subsections (d) and (e), Section 11.147, Water
26 Code, are amended to read as follows:

27 (d) In its consideration of an application to store, take,

1 or divert water, the commission shall include in the permit, to the
2 extent practicable when considering all public interests, those
3 conditions considered by the commission necessary to maintain
4 ~~[consider the effect, if any, of the issuance of the permit on]~~
5 existing instream uses and water quality of the stream or river to
6 which the application applies.

7 (e) The commission shall include in the permit, to the
8 extent practicable when considering all public interests, those
9 conditions considered by the commission necessary to maintain ~~[also~~
10 ~~consider the effect, if any, of the issuance of the permit on]~~ fish
11 and wildlife habitats.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2003.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 1374 as follows:

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3, line 1), after the word "senate" and before the underlined period, add "one of whom shall be the chair of the Senate Natural Resources Committee"

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3, line 8), after the word "representatives" and before the underlined period, add "one of whom shall be the chair of the House Natural Resources Committee"

Wolens

COMMITTEE AMENDMENT NO. 2

Amend S.B. 1374 as follows:

In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3), strike lines 11 and 12 and substitute the following:

(f) The chair of the House Natural Resources Committee and the chair of the Senate Natural Resources Committee shall serve as joint presiding officers of the study commission.

Wolens

COMMITTEE AMENDMENT NO. 3

Amend S.B. 1374 as follows:

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 2, line 11), strike "15" and substitute "17".

(2) In SECTION 1 of the bill, proposed Section

1 11.0236(b)(1), Water Code (Senate Engrossment, page 2, line 13),
2 strike "two" and substitute "three".

3 (3) In SECTION 1 of the bill, following proposed Section
4 11.0236(b)(5), Water Code (Senate Engrossment, page 2, line 20),
5 strike "and".

6 (4) In SECTION 1 of the bill, proposed Section
7 11.0236(b)(6), Water Code, between "designee" and the underlined
8 period (Senate Engrossment, page 2, line 22), insert the following:
9 ;and

10 (7) the commissioner of agriculture or the commissioner's
11 designee

12 (5) In SECTION 1 of the bill, proposed Section 11.0236,
13 Water Code, between Subsections (b) and (c) of that section (Senate
14 Engrossment, page 2, between lines 22 and 23), insert the following
15 subsection and reletter the subsequent subsections of that section
16 and cross-reference to those subsections appropriately:

17 (c) Of the members appointed under Subsection (b)(1), one
18 member must be actively engaged in irrigated agriculture and one
19 member must represent a conservation and reclamation district.

20 Hardcastle

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 28, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1374 by Armbrister (Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, Committee Report 1st House, Substituted: a negative impact of (\$84,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$42,000)
2005	(\$42,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GAME, FISH, WATER</i> <i>SAFETY AC</i> 9	Change in Number of State Employees from FY 2003
2004	(\$42,000)	(\$27,077)	1.1
2005	(\$42,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a fifteen-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would provide staff to the newly-created commission.

Members of the new commission would be eligible for reimbursement of travel expenses incurred by the member while conducting the business of the study commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009. It is expected that costs associated with this bill to the three agencies could be reasonably absorbed within the existing resources of each of the respective agencies.

Assuming the 12 members of the newly-created commission not representing TCEQ, TPWD and the Water Development Board would incur travel expenses of \$1,000 each per year, an additional \$12,000 in travel costs would be expected to be paid out of the General Revenue Fund. This estimate assumes that these costs would be paid out of existing appropriations to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department
LBB Staff: JK, CL, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 22, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1374** by Armbrister (Relating to permitting of water rights for instream uses by the Texas Commission on Environmental Quality.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, As Introduced: a negative impact of (\$60,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$30,000)
2005	(\$30,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$30,000)	(\$27,077)	1.1
2005	(\$30,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a nine-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would be charged with providing staff to the newly-created commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009.

It is expected that all costs associated with this bill could be reasonably absorbed within the existing resources of each of the respective agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

HOUSE COMMITTEE REPORT

03 MAY 24 AM 12:38

HOUSE OF REPRESENTATIVES

1st Printing

By: Armbrister
(Puente)

S.B. No. 1374

A BILL TO BE ENTITLED

AN ACT

relating to public waters and provision for environmental flows by
the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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by adding Sections 11.0235, 11.0236, and 11.0237 to read as
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(a) The waters of the state are held in trust for the public, and
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(b) Maintaining the biological soundness of the state's
rivers, lakes, bays, and estuaries is of great importance to the
public's economic health and general well-being.

(c) The legislature has expressly required the commission
while balancing all other interests to consider and provide for the
freshwater inflows necessary to maintain the viability of the
state's bay and estuary systems in the commission's regular
granting of permits for the use of state waters.

(d) The legislature has not expressly authorized granting
water rights exclusively for:

(1) instream flows dedicated to environmental needs or
inflows to the state's bay and estuary systems; or

(2) other similar beneficial uses.

1 (e) The fact that greater pressures and demands are being
2 placed on the water resources of the state makes it of paramount
3 importance to reexamine the process for ensuring that these
4 important priorities are effectively addressed in clear
5 delegations of authority to the commission.

6 Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL
7 FLOWS. (a) In recognition of the importance that the ecological
8 soundness of our riverine, bay, and estuary systems and riparian
9 lands has on the economy, health, and well-being of the state there
10 is created the Study Commission on Water for Environmental Flows.

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14 (2) five members appointed by the lieutenant governor;
15 (3) five members appointed by the speaker of the house
16 of representatives;

17 (4) the presiding officer of the commission or the
18 presiding officer's designee;

19 (5) the chairman of the board or the chairman's
20 designee; and

21 (6) the presiding officer of the Parks and Wildlife
22 Commission or the presiding officer's designee.

23 (c) Of the members appointed under Subsection (b)(2):

24 (1) one member must represent a river authority or
25 municipal water supply agency or authority;

26 (2) one member must represent an entity that is
27 distinguished by its efforts in resource protection; and

1 (3) three members must be members of the senate.

2 (d) Of the members appointed under Subsection (b)(3):

3 (1) one member must represent a river authority or
4 municipal water supply agency or authority;

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6 distinguished by its efforts in resource protection; and

7 (3) three members must be members of the house of
8 representatives.

9 (e) Each appointed member of the study commission serves at
10 the will of the person who appointed the member.

11 (f) The appointed senator with the most seniority serves as
12 presiding officer of the study commission.

13 (g) A member of the study commission is not entitled to
14 receive compensation for service on the study commission but is
15 entitled to reimbursement of the travel expenses incurred by the
16 member while conducting the business of the study commission, as
17 provided by the General Appropriations Act.

18 (h) The study commission may accept gifts and grants from
19 any source to be used to carry out a function of the study
20 commission.

21 (i) The commission shall provide staff support for the study
22 commission.

23 (j) The study commission shall conduct public hearings and
24 study public policy implications for balancing the demands on the
25 water resources of the state resulting from a growing population
26 with the requirements of the riverine, bay, and estuary systems
27 including granting permits for instream flows dedicated to

environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the study commission determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the study commission shall take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our parks, game preserves, and bay and estuary systems and are high priorities in the permitting process. The study commission shall specifically address ways that the ecological soundness of these systems will be ensured in the water allocation process.

(k) The study commission:

(1) shall appoint an advisory scientific committee that will:

(A) serve as impartial scientific advisors and reviewers for the study commission; and

(B) have a membership of no fewer than five and no more than nine total members chosen by the study commission to represent a variety of areas of relevant technical expertise;

(2) may appoint additional advisory committees to assist the study commission; and

(3) may draft proposed legislation to modify existing water-rights permitting statutes.

(1) Not later than December 1, 2004, the study commission shall issue a report summarizing:

(1) any hearings conducted by the study commission;

1 (2) any studies conducted by the study commission;
2 (3) any legislation proposed by the study commission;
3 and
4 (4) any other findings and recommendations of the
5 study commission.

6 (m) The study commission shall promptly deliver copies of
7 the report to the governor, lieutenant governor, and speaker of the
8 house of representatives.

9 (n) The study commission shall adopt rules to administer
10 this section.

11 (o) The study commission is abolished and this section
12 expires September 1, 2005.

13 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
14 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The
15 commission may not issue a new permit for instream flows dedicated
16 to environmental needs or bay and estuary inflows. This section
17 does not prohibit the commission from issuing an amendment to an
18 existing permit or certificate of adjudication to change the use to
19 or add a use for instream flows dedicated to environmental needs or
20 bay and estuary inflows.

21 (b) This section does not alter the commission's
22 obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F),
23 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

24 (c) This section expires September 1, 2005.

25 SECTION 2. Subsections (d) and (e), Section 11.147, Water
26 Code, are amended to read as follows:

27 (d) In its consideration of an application to store, take,

1 or divert water, the commission shall include in the permit, to the
2 extent practicable when considering all public interests, those
3 conditions considered by the commission necessary to maintain
4 ~~[consider the effect, if any, of the issuance of the permit on]~~
5 existing instream uses and water quality of the stream or river to
6 which the application applies.

7 (e) The commission shall include in the permit, to the
8 extent practicable when considering all public interests, those
9 conditions considered by the commission necessary to maintain ~~[also~~
10 ~~consider the effect, if any, of the issuance of the permit on]~~ fish
11 and wildlife habitats.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2003.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 1374 as follows:

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3, line 1), after the word "senate" and before the underlined period, add "one of whom shall be the chair of the Senate Natural Resources Committee"

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3, line 8), after the word "representatives" and before the underlined period, add "one of whom shall be the chair of the House Natural Resources Committee"

Wolens

COMMITTEE AMENDMENT NO. 2

Amend S.B. 1374 as follows:

In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 3), strike lines 11 and 12 and substitute the following:

(f) The chair of the House Natural Resources Committee and the chair of the Senate Natural Resources Committee shall serve as joint presiding officers of the study commission.

Wolens

COMMITTEE AMENDMENT NO. 3

Amend S.B. 1374 as follows:

(1) In SECTION 1 of the bill, proposed Section 11.0236(b), Water Code (Senate Engrossment, page 2, line 11), strike "15" and substitute "17".

(2) In SECTION 1 of the bill, proposed Section

1 11.0236(b)(1), Water Code (Senate Engrossment, page 2, line 13),
2 strike "two" and substitute "three".

3 (3) In SECTION 1 of the bill, following proposed Section
4 11.0236(b)(5), Water Code (Senate Engrossment, page 2, line 20),
5 strike "and".

6 (4) In SECTION 1 of the bill, proposed Section
7 11.0236(b)(6), Water Code, between "designee" and the underlined
8 period (Senate Engrossment, page 2, line 22), insert the following:
9 ;and

10 (7) the commissioner of agriculture or the commissioner's
11 designee

12 (5) In SECTION 1 of the bill, proposed Section 11.0236,
13 Water Code, between Subsections (b) and (c) of that section (Senate
14 Engrossment, page 2, between lines 22 and 23), insert the following
15 subsection and reletter the subsequent subsections of that section
16 and cross-reference to those subsections appropriately:

17 (c) Of the members appointed under Subsection (b)(1), one
18 member must be actively engaged in irrigated agriculture and one
19 member must represent a conservation and reclamation district.

20 Hardcastle

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

5/21/03
(date)

Sir:
We, your COMMITTEE ON NATURAL RESOURCES
to whom was referred SB 1374 have had the same under consideration and beg to report
back with the recommendation that it

- ☐ do pass, without amendment.
- ☒ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Puente

Joint Sponsors: _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Campbell				X
Cook, R.	X			
Geren	X			
Hamilton				X
Hardcastle	X			
Hope				X
Wolens				X

Total 5 aye
 0 nay
 0 present, not voting
 4 absent

Alt Nat
CHAIR

BILL ANALYSIS

S.B. 1374
By: Armbrister
Natural Resources
Committee Report (Amended)

BACKGROUND AND PURPOSE

The Texas Commission on Environmental Quality (TCEQ) regulates the instream uses of Texas surface waterbodies, bays, and estuaries. S.B. 1374 sets forth state policy regarding waters of the state; creates the Study Commission on Water for Environmental Flows in recognition of the importance that the ecological soundness of riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state; and makes provisions regarding water rights permits for instream flows.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Study Commission on Water for Environmental Flows in SECTION 1 (Section 11.0236, Water Code) of this bill.

ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Water Code, by adding Sections 11.0235, 11.0236, and 11.0237, as follows:

Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE. Sets forth state policy regarding waters of the state and legislative intent regarding water rights.

Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL FLOWS. (a) Creates, in recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well being of the state, the Study Commission on Water for Environmental Flows (study commission).

(b) Provides that the study commission is composed of 15 certain members.

(c) Sets forth stipulations regarding members of the study commission.

(d) Sets forth stipulations regarding members of the study commission.

(e) Provides that each appointed member of the study commission serves at the will of the person who appointed the member.

(f) Provides that the appointed senator with the most seniority serves as presiding officer of the study commission.

(g) Provides that a member of the study commission is not entitled to receive compensation for service on the study commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the study commission, as provided by the General Appropriations Act.

(h) Authorizes the study commission to accept gifts and grants from any source to be used to carry out a function of the study commission.

(i) Requires the Texas Commission on Environmental Quality (TCEQ) to provide staff support for the study commission.

(j) Requires the study commission to conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that TCEQ determines have importance and relevance to the protection of environmental

flows. Requires the study commission, in evaluating the options for providing adequate environmental flows, to take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our parks, game preserves, and bay and estuary systems and are high priorities in the permitting process. Requires the study commission to specifically address ways that the ecological soundness of these systems will be ensured in the water allocation process.

(k) Requires the study commission to appoint an advisory scientific committee with certain membership and that will perform certain functions; provides that the study commission may appoint additional advisory committees to assist the study commission; provides that the study commission may draft proposed legislation to modify existing water-rights permitting statutes.

(l) Requires the study commission, not later than December 1, 2004, to issue a report summarizing certain actions and findings.

(m) Requires the study commission to promptly deliver copies of the report to the governor, lieutenant governor and speaker of the house of representatives.

(n) Requires the study commission to adopt rules to administer this section.

(o) Provides that the study commission is abolished, and this section expires, September 1, 2005.

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO

ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) Provides that the TCEQ may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. Provides that this section does not prohibit TCEQ from issuing an amendment to an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) Provides that this section does not alter TCEQ's obligations under Section 11.042(b) (regarding the diversion and reuse of return flows), 11.046(b) (provisions regarding the return of surplus water), 11.085(k)(2)(F) (pertaining to TCEQ's consideration of the impact of a proposed transfer on certain waterways), 11.134(b)(3)(D) (regarding the grant of an application being contingent on certain assessments), 11.147 (Effects of Permit on Bays and Estuaries and Instream Uses), 11.1491 (Evaluation of Bays and Estuaries Data), 16.058 (Collection of Bays and Estuaries Data; Conduct of Studies), or 16.059 (Collection of Instream Flow Data; Conduct of Studies). (c) Provides that this section expires September 1, 2005.

SECTION 2. Amends Subsections (d) and (e), Section 11.147, Water Code, as follows:

(d) Requires TCEQ, in its consideration of an application to store, take, or divert water, to include in the permit, to the extent practicable when considering all public interests, those conditions considered by TCEQ necessary to maintain existing instream uses and water quality of the stream or river to which the application applies.

(e) Requires TCEQ to include in the permit, to the extent practicable when considering all public interests, those conditions considered by TCEQ necessary to maintain fish and wildlife habitats.

SECTION 3. Effective date: upon passage or September 1, 2003.

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 provides that of the three senate members appointed to the study commission, one shall be the chair of the Senate Natural Resources Committee and that of the three house members appointed to the study commission, one shall be the chair of the House Natural Resources Committee.

Committee Amendment No. 2 strikes language providing that the appointed senator with the most seniority serves as presiding officer of the study commission. Instead, the amendment

provides that the chair of the House Natural Resources Committee and the chair of the Senate Natural Resources Committee shall serve as joint presiding officers of the study commission.

Committee Amendment No. 3 increases the total number of members of the study commission from 15 to 17; adds one additional Governor-appointed member of the study commission; adds the commissioner of agriculture or the commissioner's designee as a member of the study commission; provides that of the Governor-appointed members, one member must be actively engaged in irrigated agriculture and one member must represent a conservation and reclamation district.

SUMMARY OF COMMITTEE ACTION

SB 1374

May 21, 2003 8:00AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Amendment(s) considered in committee

Reported favorably as amended

WITNESS LIST

SB 1374
HOUSE COMMITTEE REPORT
Natural Resources Committee

May 21, 2003 - 8:00AM

For: Rothe, Greg (San Antonio River Authority)
Against: Fairchild, Jack (San Marcos River Foundation)
Hess, Myron (National Wildlife Federation)
Kramer, Ken (Lone Star Chapter, Sierra Club)
Levin, Ilan (San Marcos River Foundation)
Wassenich, Dianne (San Marcos River Foundation)
Wemple, Charles C. (Galveston Bay Foundation)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 23, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1374 by Armbrister (Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.), Committee Report 2nd House, As Amended

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, Committee Report 2nd House, As Amended: a negative impact of (\$88,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$44,000)
2005	(\$44,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$44,000)	(\$27,077)	1.1
2005	(\$44,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a 17-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) and the Agriculture Commissioner would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would provide staff to the newly-created commission.

Members of the new commission would be eligible for reimbursement of travel expenses incurred by

the member while conducting the business of the study commission.

Methodology

There would be some costs to each the TCEQ, the TWDB, the TPWD and the Department of Agriculture in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The Department of Agriculture expects that additional costs to that agency would total no more than \$1,000, with no additional FTE required. These costs also are expected to be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009. It is expected that costs associated with this bill to the four agencies could be reasonably absorbed within the existing resources of each of the respective agencies.

Assuming the 13 members of the newly-created commission not representing TCEQ, TPWD, the Department of Agriculture and the Water Development Board would incur travel expenses of \$1,000 each per year, an additional \$13,000 in travel costs would be expected to be paid out of the General Revenue Fund. This estimate assumes that these costs would be paid out of existing appropriations to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department, 551 Department of Agriculture

LBB Staff: JK, CL, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 20, 2003

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1374 by Armbrister (Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, As Engrossed: a negative impact of (\$84,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$42,000)
2005	(\$42,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$42,000)	(\$27,077)	1.1
2005	(\$42,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a fifteen-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would provide staff to the newly-created commission.

Members of the new commission would be eligible for reimbursement of travel expenses incurred by the member while conducting the business of the study commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009. It is expected that costs associated with this bill to the three agencies could be reasonably absorbed within the existing resources of each of the respective agencies.

Assuming the 12 members of the newly-created commission not representing TCEQ, TPWD and the Water Development Board would incur travel expenses of \$1,000 each per year, an additional \$12,000 in travel costs would be expected to be paid out of the General Revenue Fund. This estimate assumes that these costs would be paid out of existing appropriations to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 28, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1374 by Armbrister (Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, Committee Report 1st House. Substituted: a negative impact of (\$84,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$42,000)
2005	(\$42,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$42,000)	(\$27,077)	1.1
2005	(\$42,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a fifteen-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would provide staff to the newly-created commission.

Members of the new commission would be eligible for reimbursement of travel expenses incurred by the member while conducting the business of the study commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009. It is expected that costs associated with this bill to the three agencies could be reasonably absorbed within the existing resources of each of the respective agencies.

Assuming the 12 members of the newly-created commission not representing TCEQ, TPWD and the Water Development Board would incur travel expenses of \$1,000 each per year, an additional \$12,000 in travel costs would be expected to be paid out of the General Revenue Fund. This estimate assumes that these costs would be paid out of existing appropriations to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 22, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1374 by Armbrister (Relating to permitting of water rights for instream uses by the Texas Commission on Environmental Quality.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1374, As Introduced: a negative impact of (\$60,000) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$30,000)
2005	(\$30,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2003
2004	(\$30,000)	(\$27,077)	1.1
2005	(\$30,000)	(\$20,308)	1.1
2006	\$0	\$0	0.0
2007	\$0	\$0	0.0
2008	\$0	\$0	0.0

Fiscal Analysis

The bill would create a nine-member study commission on water rights for instream uses. The chairs of the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) would each serve on the commission. The commission would be required to conduct public hearings and study public policy implications for granting permits for instream uses of fresh water and other issues relating to the permitting of instream uses of water. The TCEQ would be charged with providing staff to the newly-created commission.

Methodology

There would be some costs to each the TCEQ, TWDB and TPWD in supporting the commission and the preparation of its report.

The TCEQ and Water Development Board each expect that the bill would require \$15,000 and 0.3 FTE for each agency in each fiscal year 2004 and 2005. This estimate assumes that these costs would be paid out of the General Revenue Fund. The TPWD estimates a cost of \$27,077 in 2004 and \$20,308 in 2005, along with 0.5 FTE. This estimate assumes TPWD costs would be paid out of the Game, Fish and Water Safety Account No. 009.

It is expected that all costs associated with this bill could be reasonably absorbed within the existing resources of each of the respective agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JK, CL, TL

S.B. No. 1374

By *Tommy Ambler*

A BILL TO BE ENTITLED

AN ACT:

relating to permitting of water rights for instream uses by the Texas Commission on Environmental Quality.

3-13-03 Filed with the Secretary of the Senate
MAR 19 2003 Read and referred to Committee on NATURAL RESOURCES
Reported favorably _____
APR 29 2003 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
Laid before the Senate
MAY 05 2003 Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays
MAY 05 2003 Read second time, amended, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays
MAY 05 2003 Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.
MAY 05 2003 Read third time, _____, and passed by: { A viva voce vote
31 yeas, 0 nays

Lotay Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

May 5, 2003 Engrossed
May 5, 2003 Sent to House

Engrossing Clerk *Mardi Alford*

MAY 05 2003 Received from the Senate
MAY 05 2003 Read first time and referred to Committee on Natural Resources
MAY 21 2003 Reported _____ favorably (as amended) (~~as substituted~~)
MAY 24 2003 Sent to Committee on (Calendars) (~~Local & Consent Calendars~~)
Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.
Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Returned to Senate.
Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

03 MAY 24 AM 12:38
HOUSE OF REPRESENTATIVES